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WHETHER AND HOW THE UNITED STATES SHOULD SEEK TO "LEGITIMIZE" AND TO DISCLOSE FURTHER ITS SATELLITE RECONNAISSANCE CAPABILITY

I. INTRODUCTION.

In recent years satellite reconnaissance has been the major source of U.S. strategic military intelligence of the Soviet Union and Communist China. This reconnaissance technique has supplied crucial information upon which the U.S. has greatly relied in evaluating these countries' military capabilities and in determining its own force structures. It has also provided important military intelligence about other countries, such as France, Indonesia and the Congo. Satellite reconnaissance intelligence has been especially important to the U.S. evaluation of Soviet strategic missile and other offensive weapon capabilities and of the Soviet and Chinese strategic military research and development programs.

Denial of satellite reconnaissance information to the U.S., or a reduction in the program's effectiveness, would have a significant adverse impact on U.S. national security. Because of the greater availability to the Soviets of strategic military intelligence about the U.S., the adverse effect of denial would almost certainly be greater upon the U.S. than upon the Soviet Union, which also conducts an extensive satellite reconnaissance program.

II. BACKGROUND OF THE PROBLEM OF "LEGITIMIZATION" AND DISCLOSURE.

There has been extensive consideration within the Executive Branch of what U.S. policy toward legitimization and disclosure should be. NSAM 156, dated May 26, 1962, expressed first formal concerns about the legitimacy of satellite reconnaissance (Tab A). Recognizing the great national security importance of the U.S. program, it directed an inter-agency committee to

NRO APPROVED FOR RELEASE
22 June 2015

formulate policies that would enable the U.S. to carry on an effective military program while at the same time enable it to work for disarmament and international cooperation in space. Subsequent inter-agency discussions led to the issuance of NSC Action 2454, July 10, 1962 (Tab B). Many of its 13 policy points rested upon the premise that limited and regulated disclosure of the U.S. program would be required in order to persuade international opinion that satellite reconnaissance was lawful and did not violate national sovereignty.2/ In part to this end, point 3 directed the "public use" of the terms "observation" or "photographic" in lieu of "reconnaissance"; point 4 directed the release of appropriate data (e.g., mapping information) that would help create public acceptance of space observation; point 6 directed that "where feasible" the U.S. should seek to have the legitimacy of space reconnaissance accepted; point 8 decided that the U.S. would not undertake "a truly clandestine program"; point 11 directed strict control over "public statements and backgrounding" on reconnaissance satellites; point 13 authorized discreet oral disclosures about the U.S. program to certain "allies and neutrals".

There have been further inquiries within the Executive Branch on the subject. In January 1963, NSAM 215 (Tab C) initiated a study of whether the U.S. should formally disclose its program to the Soviets. The interagency committee concluded, for reasons detailed below (see Part III. B.), that no such action should be taken. In mid-1964 the same group again reviewed the

2/ The concern that many nations might so consider satellite reconnaissance is bottomed on the thought that satellites are actually a less efficient means than aircraft of accomplishing reconnaissance or other overflight objectives, and that they are used almost entirely to overfly denied airspace. The more the "legitimacy" question is discussed, the more this may become clear.

NRO APPROVED FOR RELEASE
22 June 2015

the question of disclosure in light of recent Soviet statements on satellite reconnaissance. Although no formal position was prepared, it was decided that no significant action should be taken other than to provide secret briefings on the U.S. and Soviet programs to high-level European allied leaders. This was done by the Director of Central Intelligence in September (Tab D). In addition, initial drafts were prepared of "contingency" white papers for possible use in a public disclosure should this become necessary or advisable.*/

During the years since the U.S. program was begun there have been a variety of partial disclosures:

1. Early launches of such satellites were announced.

2. The program was publicly discussed by high-level government officials (Tab E).

3. The U.S. sought to direct UN inquiries and actions away from prohibitions against space "intelligence" activities and toward the more general concept that space activities should be devoted to "peaceful" uses (Tab F)

4. The U.S. has engaged in extensive "official" discussion of other uses of space "observation" or "photography", e.g., weather, mapping, geodesy (Tab G).

5. There has been increasing press coverage referring to the possibility--or to the fact--that important U.S. intelligence information has been obtained from satellite reconnaissance (Tab H).

*/ In the course of these discussions the JCS took the position that no further disclosures of our satellite reconnaissance program should be made to the Soviets. This position was based on the uncertainty of Khrushchev's motivations in revealing information on the Soviet program, the uncertainty of Soviet countermeasures, and the irretrievability of disclosing intelligence techniques (Tab I). The Secretary of the Air Force opposed disclosure to the Soviets since it would serve no useful purpose and would be an irreversible step having profound adverse effects on enemies, allies and neutrals (Tab J).

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22 June 2015

The Soviets have also taken limited steps that indicate an uncertain inclination to have satellite reconnaissance accepted as lawful (Tab K). As early as 1960, following the U-2 incident, Khrushchev implied that he would not object to satellite overflights of the Soviet Union. In the spring of 1963 he stated privately to persons whom he had reason to believe would report or publicize his statements that the U.S. should cease U-2 reconnaissance of Cuba because satellites could be used instead. Referring to the Soviet program, he offered to "exchange" pictures with the U.S. Other Soviet officials have also commented favorably on satellite reconnaissance and have implied that it is a legitimate reconnaissance means. Most important perhaps is the fact that in recent years the Soviets have in effect abandoned their early effort in the U.N. to condemn the use of space for military "spying or intelligence".

In short, there has as of now been considerable public disclosure about the existence of both the U.S. and Soviet satellite reconnaissance programs. The existence of the program is common knowledge certainly among most of the world's interested governments and probably among many of their peoples. No significant recent efforts have been made by any nation explicitly to bar satellite reconnaissance. In a sense, therefore, a degree of legitimacy--admittedly uncertain--has been achieved. It is in this existing situation--of already substantial disclosure and of practical if not formal legitimacy--that the question of whether the U.S. should seek further to legitimize and to disclose its capability should be considered.

III. SHOULD WE SEEK THE U.S. SHOULD SEEK FURTHER LEGITIMIZATION NOW?

The answer depends upon the answers to two corollary questions: A) What objective would the U.S. have in formally legitimizing satellite reconnaissance now?

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22 June 2015

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1. [illegible] Problem It Poses for U.S. Security Interests.

Next, and perhaps all, proposals to seek formal legitimization of satellite reconnaissance through the U.N. will suffer from the significant risk that the eventual outcome will be the surrender of the "right" to conduct unilateral national programs in favor of the conduct of a single "international" program by a U.N.-sponsored entity. "Internationalization" might well require the U.S. (and, of course, the Soviets) in effect to dedicate their reconnaissance capability to international purposes.

It is likely that the U.S. would be required to provide some important advantages to the neutral or unaligned nations as well as to some of our allies (e.g., France, Japan), before they would favor formal legitimization and not object to the kind the U.S. would offer them. These advantages might involve, among other things: 1) multinational participation in an international organization that supervises the conduct of satellite reconnaissance (possibly of other satellite activities as well); 2) multinational participation in the management and operation (tracking stations, personnel, equipments production) of satellite programs; 3) making the results of all reconnaissance and other satellite activities available internationally on a nondiscriminatory basis.[1] Concessions of these types would seriously disadvantage U.S. security interests. They would reduce significantly U.S. control over the program and introduce a substantial risk that, if a single nation or group of nations objected, the U.S. would subsequently be unable

[1] This is drawn from current international discussions on communications satellites and is illustrative. It is true that the U.S. will have a dominant voice in the governing international organization, but it will by no means be able to act unilaterally as it wishes. Thus, a joint military-commercial system was decided

(continued on p. 6)

~~TOP SECRET~~

NRO APPROVED FOR RELEASE
22 June 2015

to classify reconnaissance of areas of interest to it for security reasons. Under all, the legality of the orbiting U.S. program would undoubtedly be called into question at the outset of any international discussions on legitimization, and the U.S. would be threatened with the denial of legality if it did not make the required concessions to internationalization.

In balance, the risk is substantial that a large measure of international control over satellite reconnaissance would be the price of formal legitimacy. Such control in the one means that the many small nations, including some of our allies (e.g., France, Japan), would have of re-asserting national sovereignty over their airspace. The pressures of domestic politics and national prestige on those countries to press the issue is probably manageable so long as the U.S. does not ask for formal legitimization of satellite reconnaissance and avoids extensive disclosures about its program and capabilities.

2. Legitimize through the U.N.

The need might arise, or it might be advantageous, to seek formal legitimization or make further extensive disclosures in the U.N. in the following possible circumstances:

1) Public alibi. A real nuclear confrontation or some other serious world crisis possibly could be eased by intelligence obtained from satellite photography. It might become necessary, as it did in the Cuba crisis, to prove the U.S. "case" in the U.N. by publicly producing photography

[illegible] the issues of international exposition. Finally, recent discussion in the U.N. under Swiss sponsorship indicates that many neutral and unaligned nations believe that there was insufficient "internationalization" of the communications satellites project. If given the opportunity, these as well as other countries might make a determined effort to wrest control of any observation satellites undertaking from the U.S. and place it more in their own hands.

NRO APPROVED FOR RELEASE
22 June 2015

and reflecting the intelligence it reveals. Extensive disclosure of U.S. capabilities, providing the world with substantial information about our program, would be inevitable. It is possible that following disclosure in this situation a number of countries would question the legality of satellite reconnaissance and internationalization would be urged (with all its attendant dangers). The international political and military stakes causing disclosure should therefore be of the highest order, and there should be a high probability that the crisis will abate through disclosure.

2) U.N. debate of U.S. U-2 flights over Cuba. The desirability of and necessity for disclosure would vary markedly depending upon whether the debate occurred pre- or post-shootdown.

(1) Pre-shootdown. For domestic political reasons and for reasons of national prestige, the U.S. probably could not accept satellite photography as a substitute for the U-2 program, and therefore would try to avoid disclosure of its capability. The U.S. would be required initially to retaliate against Cuba, and the effect of retaliation upon both Cuba, the Soviets and the Chinese is difficult to foresee. The U.S. room for maneuver is significantly less after a shootdown than before and the entire question of satellite reconnaissance would be overshadowed by the international crisis that might result following the U.S. retaliation. (Areas other than Cuba--e.g., Berlin, Korea--could become involved.

(2) Post-shootdown. The U.S. should decide whether it will pursue the existing U-2 program. If the decision is affirmative, the U.S. position in a U.N. debate would be to minimize the utility of satellite photography for Cuba reconnaissance and probably for other purposes as well. If the

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22 June 2015

situation is negative, the U.S. would probably take the position in the UN that the development of non-U.S. techniques has permitted a significant reduction in the number of U-2 flights required to secure protection of U.S. security interests. Although it is not certain, the U.S. probably will be required (if only for domestic political reasons) to indicate in some detail what capabilities it is relying upon in lieu of the U-2.

A very troublesome situation will arise if the Soviets and Cuba insist that satellites alone are sufficient and that all U-2 flights should cease. The U.S. will then, in effect, have obtained a formal, public acknowledgment from the Soviet Bloc of the "legitimacy" of satellite reconnaissance, but only at a high price: an imminent crisis over the continuation of even a reduced number of U-2 flights.

In any U.N. debate involving the substitution of satellite reconnaissance for the U-2, the U.S. should seek to induce the Soviets to produce publicly satellite photography of such a quality that it could be relied upon for Cuba reconnaissance. The U.S. intelligence estimate is that the Soviet photography is of too low a resolution to meet this test (10-to-20'). The Soviet photography would of course appear greatly inadequate by comparison with the U-2 product. Depending upon the U.S. position regarding continuation of the U-2 program, the U.S. could show poor, good or excellent satellite photography.

All the foregoing assumes that the U.S. will not renounce completely its asserted right to overfly Cuba by aircraft. If the decision were to renounce completely the U.S. would be required, for domestic political reasons and for

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22 June 2015

[illegible] privilege clause, to establish clearly that satellite reconnaissance is legally unobjectionable for the U.S.

Justification of using satellite reconnaissance in the Cuba situation will also help safeguard the assurances in the briefing given to allied leaders in August that this technique was inadequate for this purpose.

3) Public Opinion in U.S. Quest from Soviets. It is unlikely that forthcoming discussion on peaceful uses of outer space would either make it advisable, or force us, to disclose our program. Three factors are relevant: (1) The Soviets no longer refer to the "peaceful uses only" theme in their outer space discussions in the U.N., although some Bloc spokesmen still dwell on this theme nonetheless, probably as a sop to nonaligned nations. (2) As other nations achieve capabilities in outer space, some of the most vocal of the peaceful uses advocates, e.g., Japan, UAR, will assume more of a "military posture" as the Soviets have done. (3) The process of legitimization has been slowly, but surely, taking place and the pressures in the U.N. on the peaceful uses front are not expected to become so great that they cannot be successfully resisted while the process continues.

Should these factors prove insufficient bulwarks against pressures in the U.N. for further disclosure, and should a proposed declaration of illegality appear inevitable, our only recourse would be to take a strong position in favor of formal legitimacy (perhaps in coordination with the Soviets).

4) Use of International Political Initiatives.

(a) In the U.N. It is conceivable although highly unlikely that the U.S. would/[illegible] its satellite reconnaissance capability to the U.N. either

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22 June 2015

acceptably or as part of a large-scale U.S. effort to seek internationalization of all satellite activities. It is difficult to comprehend what realistic policy objective the U.S. would seek in taking such action except possibly a revival in modern dress of President Eisenhower's "open skies" proposal of 1955. (There is a basic distinction between the 1955 proposal and possible internationalization of the present U.S. program: in 1955 the U.S. was looking to the U.N. forum to develop a new international reconnaissance capability where there was no comparable national capability; today the U.S. might be jeopardizing an existing and important national capability by internationalizing it.) If this action were taken, it would involve all the risks and unattractive aspects of "internationalization" already described. The arms control context, which would be the most practical setting for such action, is discussed separately below (part III. B.).

(2) By the Soviets. In an effort to gain international political prestige and at the same time to embarrass the U.S., it is conceivable, although also unlikely, that the Soviets would decide to dedicate their own capability to the U.N. For maximum effect, any such action probably would be taken entirely apart from the Cuba situation or formal U.N. proceedings on outer space (e.g., a major General Assembly speech), and probably would be related to arms control. The question of formal legitimacy would become secondary, and the focus of discussion would shift to the kind of international control that would be required to implement the Soviet proposal, which would probably be presented in vague and general terms.

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22 June 2015

4. Disclosure to the Soviets.

The reasons for and against disclosure to the Soviets were explored in the January 1963 memorandum of the interagency committee (Tab). The committee's negative recommendation was based largely on: 1) the very substantial uncertainty about the Soviet response that disclosure might produce; 2) the conclusion, on balance that the response would be negative; and 3) the lack of any apparent compensating gain to the U.S. from disclosure. Generally speaking, these considerations are equally compelling today.

The first two considerations, which weighed heavily with the interagency committee, are buttressed today by the recent change of leadership in the Soviet Union. The difficulties the U.S. might have had in judging Khrushchev's possible reactions to disclosure are increased measurably by the change. Such an event, typically, heralds a period of uncertainty in Soviet policy and, for other countries, of difficulty in anticipating possible actions that the Soviets might take. Reports that Khrushchev was removed at least in part because the Soviet military thought that his leadership had weakened national security is also a factor that militates against disclosure at this time. Formally confronted with the reality of the U.S. program, the new Soviet leadership--pressed by the military--might be induced to take diplomatic or military countermeasures intended to neutralize the U.S. capability. 2/

The major objective of disclosure would be to indicate to the Soviets that their policy of national secrecy is no longer valid in the satellite age,

2/ Khrushchev's unrestrained private statements to Western sources about satellite reconnaissance may have been one of the factors that those who opposed him objected to. It is questionable whether the U.S. should now rely on these statements as a reason for making disclosures to the Soviets.

NRO APPROVED FOR RELEASE
22 June 2015

that the U.S. has substantial intelligence about Soviet strategic capabilities and that they cannot hope to win a strategic military victory by surprise. It is doubtful whether disclosure would further these objectives. Instead of altering the Soviets' secrecy policy, disclosure would more likely stimulate additional secrecy efforts specifically directed against the U.S. program. The Soviets might undertake to accelerate development of an anti-satellite missile or of electronic or other means of neutralizing the U.S. capability without invading U.S. airspace. They might move more rapidly to develop their ballistic missile submarine capability. It is possible that they would publicly challenge the legality of satellite reconnaissance and be willing to forego the benefits derived from their own program. Certainly, the Soviets would step-up their efforts, already underway, to camouflage anticipated satellite photography targets such as hardened strategic missile sites and nuclear weapons development areas.

Admittedly, the Soviets even now have some incentive to act against the U.S. program. They know that the program exists and almost certainly have some idea about the nature of the U.S. capability. Probably, however, lacking sufficient intelligence and examples of U.S. photography, the Soviets' knowledge is quite limited and imprecise. On the other hand, the Soviets--and the Chinese--realize by now that satellite photography is a key source of U.S. military intelligence about the Soviet Union and China. And both governments must be aware that this source is far more important to the U.S. than it is to them (though it may be that the Soviets may have a higher priority need for satellite photography of China than of the U.S.). Any substantial actions taken to disclose the U.S. program to the Soviets might be the event that triggers their more [redacted] opposition.

NRO APPROVED FOR RELEASE
22 June 2015

disclosure to the Soviets in crisis situations raised separate problems.[1] The intent here would be to indicate clearly to them that they cannot rely upon secrecy for any military actions they may be contemplating in the crisis and that the U.S. has usable and precise intelligence about potential targets in the Soviet Union. Again, however, the Soviet reaction would be difficult to predict. They might well take action contrary to what the disclosure was intended to produce. They might conclude that the disclosure amounted to a U.S. ultimatum that they desist in the crisis and react precipitously. On balance, there is no clear-cut basis for concluding now that disclosure in crisis would be desirable in principle. The decision will ultimately be shaped by the expected reaction of the Soviets to disclosure in any particular crisis.

[1] "Disclosure" in crisis refers to disclosure of photography of the Soviet Union. The precise area of crisis would be elsewhere--e.g., Cuba, Berlin. Photography of such areas would almost certainly have to be secured by traditional means for reasons of timeliness.

NRO APPROVED FOR RELEASE
22 June 2015

c. The Arms Control Contextual Feasible Approach.

Arms control appears to be the area in which a policy of disclosure, if properly and carefully handled, would have promise in the reasonably near future.

The January 1963 report of the inter-agency committee was qualifiedly negative on this issue; the committee believed that, on balance disclosure would not measurably assist and might harm existing arms control efforts. Ambassador Thompson was more sanguine, relying to a large extent on Khrushchev's apparent interest in reducing the burden of armaments on Soviet society. He recommended that the question of disclosure be reconsidered when disarmament prospects improve. In this year's review ACDA presented a very rudimentary, generalized proposal that does not appear to have received thorough consideration and analysis (TAB). There are many problems, but the proposal may contain the germ of a useful approach.

ACDA's proposal seems to contemplate the creation of an internationally supervised or operated satellite reconnaissance system that would have no immediate adverse impact on existing national systems. The U.S. would provide technical and other support for the system, as would the Soviets and other interested nations presumably. The system would provide 'moderate' resolution photography (ACDA indicated no figures, but 10' is reasonable) that would be received and used by some international disarmament body. The U.S. proposal would make clear that satellite reconnaissance can only supplement, and not substitute for, ground inspection; that it might indeed stimulate the need for ground inspection in some circumstances by disclosing suspect activities. Measures to specific U.S. capabilities would be avoided as much as possible in any discussions or implementation of the proposal.

NRO APPROVED FOR RELEASE
22 June 2015

This proposal is attractive for the reasons that it: 1) avoids a direct confrontation between national and international programs with a consequent political risk of weakening the former; 2) does not confront the Soviets, either publicly or privately, with the reality of the U.S. program; 3) will enable the U.S. to continue its own program until it unilaterally decides, if at all, to rely upon the international program; 4) will achieve a measurable step toward legitimization at little risk to the U.S. national program.

The proposal probably does not overcome the major objection voiced in the past to serious discussion of satellite reconnaissance as an arms control inspection technique. The fear has been voiced that the Soviets would make the availability of satellite reconnaissance a basis for objecting to ground inspection. This possibility will have to be carefully evaluated, but it is estimated that careful attention to the timing and nature of a satellite reconnaissance proposal would effectively minimize this risk. (Satellite reconnaissance should, for example, be proposed as a part of an over-all inspection program)

There is the further danger that the U.S. national program will be caught in the mire of internationalization if satellite reconnaissance is proposed as an arms control inspection technique. This risk probably will be considerably less than the risk of internationalization that would be involved in explicit disclosure of the U.S. program in other international political situations (part III. B. above).

TOP SECRET